MONTANA LEGISLATIVE HISTORY

Chapter 434 19 79

Bill H 381 S _____ Original bill & history ✓ C

H. Committee on Local Gov't		S. Committee on Local Gov't.	
Hearing Date(s) _____	___C	Hearing Date(s) _____	___C
2/10	✓ C	3/15	✓ C
_____	___C	_____	___C
_____	___C	_____	___C
Date Out 2/12	✓ C		

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

CHAPTER NO. 434

HOUSE BILL NO. 381

INTRODUCED BY KESSLER

IN THE HOUSE

January 24, 1979	Introduced and referred to Committee on Local Government.
February 13, 1979	Committee recommend bill do pass as amended. Report adopted.
February 15, 1979	Printed and placed on members' desks.
February 16, 1979	Second reading, do pass.
February 17, 1979	Considered correctly engrossed.
February 19, 1979	Third reading, passed. Transmitted to second house.

IN THE SENATE

February 20, 1979	Introduced and referred to Committee on Local Government.
March 16, 1979	Committee recommend bill be concurred in. Report adopted.
March 19, 1979	Motion pass consideration.
March 20, 1979	Second reading, concurred in.
March 22, 1979	Third reading, concurred in.

IN THE HOUSE

March 22, 1979	Returned from second house. Concurred in. Sent to enrolling.
	Reported correctly enrolled.

HOUSE BILL NO. 381

INTRODUCED BY Keenan

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 7-2-4736, MCA, RELATING TO GARBAGE AND SOLID WASTE SERVICE IN THE EVENT OF ANNEXATION."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 7-2-4736, MCA, is amended to read:

"7-2-4736. Preservation of existing garbage or solid waste service in the event of annexation. A municipality that annexes or incorporates additional area receiving garbage and solid waste disposal service by a motor carrier authorized by the public service commission to conduct such service may not provide competitive or similar garbage and solid waste disposal service to the area for 3 years following annexation except upon a proper showing to the public service commission that the existing carrier is unable or refuses to provide adequate service to the annexed or incorporated area or unless a majority of the residents of the annexed or incorporated area request in writing to the municipality that such service be provided by the municipality. If a proper showing is made that the existing carrier is unable or refuses to provide adequate service to the annexed or incorporated area or if a majority of the residents request service from the municipality, the municipality shall assume sole jurisdiction for garbage and solid waste disposal service to the entire annexed or incorporated area."

-End-

HB 381

INTRODUCED BILL

HB 423 (cont.)

Rep. Donaldson then gave closing remarks, stating the private enterprise is giving needed service, and he didn't feel city people should want to be in competition with private enterprise, and 3 years wouldn't pay of a $40,000 investment by a private company. There were then questions by committee members. Rep. Azzara inquired as to which service would be more desirable, a witness stated that private collections in his business are two times a week for $5.00 less than the city. Rep. Azzara stated there should be conditions which would encourage the development of private enterprise. There were questions as to whether citizens are charged for city and when they have private contracts also pay there. General concensus was that most do not pay twice. Rep. Sales inquired if this was keeping the city from providing any services during the five years, and it was pointed out the city can provide for private services by ordinance. Some cities do not leave any choice. There were further questions from committee members regarding types of service offered and rates charged. Hearing was then closed on HB 423.

HOUSE BILL 381: Representative Kessler introduced the bill, stating that it would provide a city could furnish services for garbage and solid waste if it was requested by a majority of residents in writing. Also includes is provision for the city furnishing services if the public service commission determines the private services are inadequate.

Ken Haag of Billings then spoke in favor, stating it would permit the residents a choice and this does provide an advantage, and that 85% of the building is taking place outside of the city limits and when the areas are annexed there is a need for the choice.

Carl Abel stated he was also in favor for the same reasons.

Opponents were then called and Bill Romine representing the solid waste contractors spoke against the bill. His statement is attached, and states that the bill would take away competition. He proposed amendments to the bill which would clarify this matter. He then suggested that Rep. Donaldson's bill be passed as amended and that HB 381 do not be passed since they deal basically with the same matter. Others witnesses were present but did not testify and their statements are attached.

Rep. Kessler then gave closing remarks, stating he felt it was good to give the people choice. Rep. Azzara then stated he thought it was good to have majority rule, and that no bill would pass without this type of action. Mr. Romine answered that he felt 381 would take this away as far as competition is concerned. Rep. Gould stated both

bills are basically the same, and inquired if it would keep the city from having an option. Hearing was then closed on HB 381.

There being no further business, the meeting was duly adjourned at 1:15 p.m.

Hershel M. Robbins

Hershel M. Robbins, Chairman
LOCAL GOVERNMENT COMMITTEE

Patricia A. Hatfield

Patricia A. Hatfield
Committee Secretary

HOUSE BILL 381: Rep. Kessler moved that this bill relating to solid waste service do pass. There was then discussion regarding this bill and the similar bill 423. Rep. Gould asked that HB 381 be amended to read 5 years rather than 3. Rep. Donaldson stated 423 already reads 5 years. After further discussion, it was agreed to hold 423 and act on HB 381. Rep. Donaldson then moved that HB 381 be amended on line 16, strike 3 and insert 5, and amend line 20 also, vote was called, all voted "aye" except Rep. Oberg, Kemmis and Kessler, motion carried. Rep. Donaldson then moved amend lines 20 and 17 as shown on the report, vote was called and all voted "aye" except Rep. Oberg, Kemmis and Kessler. Motion carried. Rep. Gould then moved to amend line 2, page 2 from shall to may, vote was called and all voted "aye" except Rep. Oberg and Sales. Rep. Gould then moved that HB 381 do pass as amended, vote was called and all voted "aye" except Rep. Gould. Motion carried that HB 381 do pass as amended.

HOUSE BILL 423: Rep. Sales then moved that HB 423 do not pass. Rep. Sales made substitute motion to table HB 423 and all voted "aye". Motion carried that HB 423 be tabled.

HOUSE BILL 56: Rep. Oberg, chairman of the subcommittee that studied HB 56 stated the committee had recommended several amendments to the bill. He read the proposed amendments and submitted these for discussion. After considerable debate, it was moved that the amendments be considered, and it was then further moved by Rep. Gould that HB 56 be tabled. Vote was called and HB 56 was tabled by unanimous vote.

HOUSE BILL 46: Report from the subcommittee had been given earlier to the committee. Rep. Azzara moved do pass as amended. Rep. Kessler then moved the amendments on page 7 as recommended by subcommittee. Vote was called on the amendments and all voted "aye" except Rep. Sales, Oberg, Gould and Pistoria. Rep. Azzara then moved HB 46 do pass as amended, vote was called and all voted "aye" except Rep. Gould and Rep. Pistoria. Motion carried.

There being no further business, the meeting was duly adjourned at 8:15 a.m. Announcement was made of a meeting to be held the next day at 12:30 pm.

Hershel M. Robbins, Chairman
Local Government Committee

Patricia A. Hatfield
Committee Secretary

MINUTES OF THE MEETING
LOCAL GOVERNMENT COMMITTEE
MONTANA STATE SENATE

March 15, 1979

The minutes of the Local Government Committee was called to order by Chairman McCallum at 12:30 on Thursday, March 15, in Room 405 of the State Capitol Building.

ROLL CALL: All members were present.

Dennis Taylor, staff researcher, was also present.

Many visitors were in attendance. (See attachment.)

CONSIDERATION OF HOUSE BILL 381: Representative Gene Donaldson, of District 29, presented a brief resume on HB 381 in the absence of Representative Kessler, sponsor of the bill. This bill is an act to amend Section 7-2-4736, MCA, relating to garbage and solid waste service in the event of annexation. This bill is a companion bill to HB 707.

Bill Romine, representing Montana Solid Waste Contractors Association, stated his support of HB 381. Under present law, if an area is annexed by a city, the private garbage collector servicing the area continues his service for three years. This amount of time does not give the private collector time to depreciate his equipment. Mr. Romine offered a written statement. (See attachment.)

Lester Foley, of Billings, stood in support of the bill. He stated that the investment of new equipment is quite large and this would give time to depreciate out the equipment.

John Palagz, of Green's Disposal of Great Falls, stood in support of the bill.

With no further proponents, Chairman McCallum called on the opponents.

Larry Grahl, representing the City of Billings, stood in support of the bill as it is presently worded. Mr. Gohl offered an amendment which, if accepted, the City of Billings would support the bill.

David Hunter, representing the City of Helena, said the people who handle solid waste and garbage last legislative session asked for three years and now they are back asking for two more years. It is getting tougher and tougher to annex. Mr. Hunter stated that he had no objections to the proposed amendments.

There were no further opponents. Therefore, Representative Donaldson made the closing remarks. He stated that he resists the amendments. Some sort of protection and security is needed.

The meeting was opened to a question and answer period from the Committee. Discussion was held.

CONSIDERATION OF HOUSE BILL 382: In the absence of Representative Red Menahan, of District 90, sponsor of HB 382, Bill O'Leary gave a brief resume. This bill is an act to allow a private fire protection company to continue to provide fire protection services to an area that has been annexed or incorporated by a municipality for 3 years following annexation; providing requirements for purchase of the business of such company by the municipality. The purpose of this bill is to allow fire protection companies to provide protection for 3 years to an area that is annexed. There seems to be quite a problem at Billings. Mr. O'Leary stated that this does not provide protection but does provide service for the people. This would allow O'Donnell's Fire Service to provide service to an area for 3 years to offset the costs. Mr. O'Leary asked the Committee for support on this bill.

There were no proponents to the bill. Chairman McCallum then called on the opponents.

Ray Blehm, representing the Montana State Firemen's Association, stated that HB 382 prohibits the city from providing fire protection within its own boundaries while at the same time, the city is required to be able to provide fire protection before it can annex. This law would provide a windfall profit to a private company if the city bought out the protection at the same time prohibit the city from taxing for the three year period. (See attachment.)

Larry Grahl, representing the City of Billings, stated they are against HB 382 as special interest legislation which would deny residents of newly annexed areas equal protection under the law, place the property of some of these residents in jeopardy from fire and open the door to numerous and costly lawsuits being filed against the city.

David Hunter, representing the City of Helena, stated that Helena does not have private service at this time. It is making it tougher and tougher to annex. It will stop annexation.

Dan Mizner, representing the League of Cities and Towns, stated that cities simply cannot comply with legislation of this type.

Mr. O'Leary closed by saying that in 1978, O'Donnell's Fire Service answered a total of 296 calls and 114 were not under contract.

The meeting was opened to a question and answer period from the Committee. Discussion was held.

CONSIDERATION OF HOUSE BILL 553: Representative Helen O'Connell, of District 34, chief sponsor of HB 553, gave a brief resume.

recommendation of "BE CONCURRED IN" from the Committee. Motion carried. Senator Watt will carry the bill on the floor.

DISPOSITION OF HOUSE BILL 704: A motion was made by Senator Watt that HB 704 receive a recommendation of "BE CONCURRED IN".

Senator Lockrem explained that he is against this bill, because it completely reverses its original intent. The funding for this comes from earmarked revenues.

Senator Watt stated that he would like to try this during the next biennium to see how well it works.

A substitute motion was made by Senator Lockrem that HB 704 "BE NOT CONCURRED IN". Motion carried. (See attachment.)

DISPOSITION OF HOUSE BILL 696: A motion was made by Senator Watt that HB 696 "BE CONCURRED IN". Motion carried with everyone voting "yes" except Senator Thomas who voted "no".

DISPOSITION OF HOUSE BILL 722: A motion was made by Senator Watt that HB 722 receive a "BE CONCURRED IN" recommendation from the Committee. Motion carried with everyone voting "yes" except Senator Thomas who voted "no".

DISPOSITION OF HOUSE BILL 673: Senator Story stated that it is bad to put the county officers into the state pay plan.

Senator Lockrem commented that this would be back to the local property taxes.

A motion was made by Senator Lockrem that HB 673 "BE NOT CONCURRED IN" by the Committee. Motion carried.

HOUSE BILL 46 REPORT: Chairman McCallum reported that HB 46 has been put in a sub-committee consisting of Senator Story, chairman, Senator Watt, and Senator Peterson. Senator McCallum will try to attend the meetings on this when possible.

DISPOSITION OF HOUSE BILL 381: A motion was made by Senator Conover that HB 381 "BE CONCURRED IN". Motion carried.

ADJOURN: With no further business the meeting was adjourned at 2:55. The next meeting will be held on Saturday, March 17, at 12:30 in Room 108.

George McCallum

CHAIRMAN, Senator George Mccallum

STANDING COMMITTEE REPORT

March 15 19 79

MR. President:

We, your committee on Local Government

having had under consideration House Bill No. 381

Kessler (Conover)

Respectfully report as follows: That House Bill No. 381

~~DO PASS~~ XX BE CONCURRED IN

George McCallum Chairman.

STATE PUB. CO.
Helena, Mont.

NAME: William LaFromise DATE: 3-15-79

ADDRESS: P.O. Box 1691, Helena

PHONE: 442-2220

REPRESENTING WHOM? Mont. Solid Waste Contractors Association

APPEARING ON WHICH PROPOSAL: H.B. 381

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: This bill & H.B. 707 are somewhat companion bills. Under the present law, if an area is annexed by a city, the private garbage collector servicing the area continues his service for 3 years. This amount of time does not give the private collector time to depreciate his equipment. this bill does two things. First of all, it extends the time to 5 years. Secondly, after the 5 years, he can continue the service until a majority of the property owners in the annexed area. Request that the municipality provide the services. Garbage collection is one area where private enterprise can and does, compete with, or provide a service that can be provided by the government. this bill helps to keep down taxes. It has been shown that private enterprise can provide better service, more cheaply, than can be provided by many municipalities. Without this bill, the cities can put the private carrier out of business even if the people in the annexed area want his service.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

CITY OF BILLINGS

220 NORTH 27TH STREET
P. O. BOX 1178
BILLINGS, MONTANA 59103
PHONE (406) 248-7511

As it is presently worded the City of Billings is opposed to HB 381.

When this bill was in the House it was amended as the result of a compromise on two separate bills that had been introduced on this matter. However the drafting of the amendments that were added to this bill do not reflect the compromise that we had agreed to. In order for the bill to reflect the true intent of the compromise we propose the following amendment be made.

On page 1 line 20 following the word "area" insert a period. Delete the rest of the wording in the bill and insert the following wording:

> "Provided that within the five (5) year period upon a proper showing or on petition of a majority of the residents of the annexed or incorporated area the area may be served by the municipality. Provided further that at the end of the five (5) year period the municipality shall assume sole jurisdiction for garbage and solid waste disposal service to the entire annexed or incorporated area."

With this amendment the City of Billings would be able to support this bill since we feel the amendment truly reflects what had been agreed upon in the House. But without this amendment asks that the bill be killed since it would deny city residents the opportunity to benefit from city services.

PROPOSED AMENDMENT TO HB 381

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-End-

REFERENCE BILL